

§ 123.21

amended, and the Nuclear Non-Proliferation Act of 1978, as amended, or is a government transfer authorized pursuant to these Acts. For Department of Commerce controls, *see* 15 CFR 742.3 and 744.2, administered pursuant to Section 309(c) of the Nuclear Non-proliferation Act of 1978, as amended (42 U.S.C. 2139a(c)), and 15 CFR 744.5, which are not subject to this subchapter.

(b) The transfer of materials, including special nuclear materials, nuclear parts of nuclear weapons, or other non-nuclear parts of nuclear weapons systems involving Restricted Data or of assistance involving any person directly or indirectly engaging in the production or use thereof is prohibited except as authorized by the Atomic Energy Act of 1954, as amended. The transfer of Restricted Data or such assistance is prohibited except as authorized by the Atomic Energy Act of 1954, as amended. The technical data or defense services relating to nuclear weapons, nuclear weapons systems or related defense purposes (and such data or services relating to applications of atomic energy for peaceful purposes, or related research and development) may constitute Restricted Data or such assistance, subject to the foregoing prohibition.

(c) A license for the export of a defense article, technical data, or the furnishing of a defense service relating to defense articles referred to in Category VI(e) or Category XX(b)(1) of §121.1 of this subchapter will not be granted unless the defense article, technical data, or defense service comes within the scope of an existing Agreement for Cooperation for Mutual Defense Purposes concluded pursuant to the Atomic Energy Act of 1954, as amended, with the government of the country to which the defense article, technical data, or defense service is to be exported. Licenses may be granted in the absence of such an agreement only:

(1) If the proposed export involves an article which is identical to that in use in an unclassified civilian nuclear power plant,

(2) If the proposed export has no relationship to naval nuclear propulsion, and

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(3) If it is not for use in a naval propulsion plant.

[67 FR 58988, Sept. 19, 2002, as amended at 78 FR 40933, July 8, 2013; 79 FR 47, Jan. 2, 2014; 79 FR 36393, June 27, 2014; 79 FR 66609, Nov. 10, 2014]

§ 123.21 Duration, renewal, and disposition of licenses.

(a) A license is valid for four years. The license expires when the total value or quantity authorized has been shipped or when the date of expiration has been reached, whichever occurs first. Defense articles to be shipped thereafter require a new application and license. The new application should refer to the expired license. It should not include references to any defense articles other than those of the unshipped balance of the expired license.

(b) Unused, expired, suspended, or revoked licenses must be handled in accordance with §123.22(c) of this subchapter.

[58 FR 39299, July 22, 1993, as amended at 76 FR 68312, Nov. 4, 2011]

§ 123.22 Filing, retention, and return of export licenses and filing of export information.

(a) Any export, as defined in this subchapter, of a defense article controlled by this subchapter, to include defense articles transiting the United States, requires the electronic reporting of export information. The reporting of the export information shall be to the U.S. Customs and Border Protection using the Automated Export System (AES) or directly to the Directorate of Defense Trade Controls (DDTC). Any license or other approval authorizing the permanent export of hardware must be filed at a U.S. Port before any export. Licenses or other approvals for the permanent export of technical data and defense services shall be retained by the applicant who will send the export information directly to DDTC. Temporary export or temporary import licenses for such items need not be filed with the U.S. Customs and Border Protection, but must be presented to the U.S. Customs and Border Protection for decrementing of the shipment prior to departure and at the time of entry.